Mr. C. R. Iyyunni *(Minister for Revenue):* I have no objection.

Mr. President: Mr. S. S. Koder also will be included in the Committee.

The question is that the Cochin Buildings (Lease and Rent Control) Bill be referred to a Select Committee consisting of—

1. Mr. Parambi Lonappen
2. Mr. S. S. Koder
3. Mrs. T. Francis
4. Mr. K. T. Achuthan
5. Mr. K. H. Sulaiman
6. Mr. Advocate-General
7. The Mover (Minister for Revenue)

Motion put and carried

Mr. President: The Committee will submit its report within a month, and the Hon'ble Minister for Revenue will be the Chairman of the Committee.

(3) The Cochin Industrial Employment (Standing Orders) Bill

Mr. P. Govinda Menon *(Minister for Food and Education):* Sir I move that the Cochin Industrial Employment (Standing Orders) Bill be read in Council.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

***Mr. P. Govinda Menon** *(Minister for Food and Education):* Sir, this is the first of a series of legislations which Government have in view to regularise and control the relationship between industrial labour and employment in Cochin State. As I stated, this is the first of the series. Some explanation may be required to enable Hon'ble Members to understand the scope of this legislation. We hear now-a-days of too many strikes in Industrial Establishments. If the matter is studied at close quarters, it would be seen that in many of the indus rial establishmen's in Cochin, conditions of labour are not laid down. There are no regulations made either by the management or by Government to lay down the conditions under which workmen are employed in industrial undertakings. Now, this Bill seeks to compel industrial establishments to have Standing Orders regulating the conditions of employment of labour. The Standing Orders will be something like the service regulations of Governments.

I will first of all take the House to the Schedu'e attached to the Bill. The Schedule will give you some idea as to what are the subjects on which the Industrial Establishment is expected to lay down written rules. I will go through them one by one. (1) Classification of workmen, *e.g.*, whether permanent, temporary, apprentices or probationers. Now, in many industrial establishments there is absolutely nothing to indicate whether a particular workman is a permanent employee or temporary employee. It is often found that permanet workers, *i. e.*, persons who have been long in the employ of a management, are treated sometimes as temporaries and temporaries are sometimes treated as permanent. There will be nothing either to convince the Trade Union or the Labour Commissioner or the Government as to who are temporary employees and who are permanent. So the Standing Orders are expected to cover that question. (2) The manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates, etc. In that matter also in some establishments there is some confusion. With respect to the wages paid to workmen there is no wage scale pre-determined. Often the Managers or the employers say that their wages are such. I am not referring to first class industrial concerns. (3) Then with regard to rules relating to shift work, attendance and late coming, conditions of procedure in applying for and the authority which may grant leave. In several industrial establishments, it has come to my personal knowledge that granting of leave and holidays is not often done in a regular manner. It is not laid down in several establishments as to whether workmen are allowed casual leave, if so, for how many days in a year, etc. Even these require copious research. Then I come to item 7, *viz.*, closing and reopening of sections of the industrial establishment and temporary stoppages of work and the rights and liabilities of the employer and workmen arising therefrom. Now, this subject is a very important one from the standpoint of workers. In very large industrial establishments often there will be stoppages of work due to accident, *e.g.*, the electricity may fail, the machine may go out of order. It may be for one or two days. A question will arise as to whether a workman who was in the employment of the management for ten or twelve years should lose his wages because the machine got out of order for one or two days. In certain establishments, these workmen are "played off." That is the word used. The term "played off" is an euphemistic one, because it is not play to work. It is

*Speech not corrected by the Hon'ble Minister.

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just the proverbial story of the Frog and the Student. The student threw stones on the frog by way of play; and the frog said "it is play for you; but it is not play for me." It is almost just like that. This playing off often works hardship. Then comes item No. 8, *viz.*. Termination of employment and the notice thereof to be given by employer and workmen. That is to say, before the workman is discharged he is entitled to get notice of discharge, and the grounds on which the employer can discharge the workman. Then with regard to suspension or dismissal for misconduct, and acts or omissions which constitute misconduct. Misconduct is a word now employed by the employers and the definition of misconduct will depend upon the good-will of the employer. What is it that will constitute misconduct? Will uttering slogans constitute misconduct? Will belonging to a political party be a misconduct? These thinge will have to be decided, and it is up to the employer to lay down definite rules as to what all things will constitute misconduct; and once it is laid down that will regulate the relationship between the employer and the employee. Then the next point is "Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants." Now that will have to be laid down. Over and above these, Government may prescribe certain regulations for the guidance of employers and workmen.

This Bill seeks to appoint an officer called a Certying Officer as soon as the Bill becomes law. There is a specific provision in the Bill making it obligatory on the part of industrial establishments to submit a draft Standing Orders for each industrial establishment within six months from the date of coming into force of this Act. This has to be sent to the Certifying Officer. The officer may consult the Trade Union, if there is one in existence for that establishment, and amplify, amend or modify the Standing Orders prepared by the management' The Standing Orders so prepared by the Officer may be appealed against either by the management or by the Union or by the workman individually to an appellate authority which may be constituted by Government and the ruling of the appellate authority in this matter will be final. Now, that provision to consult Trade Unions in the formulation of the Standing Orders of any industrial establishment is a great concession to workmen. In Cochin, as yet, there is no legislation which compels the management to recognise the Trade Union. A legislation is on the anvil of the Central Legislature and it is very likely that a similar legislation will be introduced here in a few days' time. But even before that, this Bill, if becomes law, will indirectly help the workman by compelling the management to recognise the Trade Union, because in formulating the Standing Orders, the particular Trade Union is consulted by Government and the Standing Orders which are going to bind the management and the employees are the Standing Orders in the making of which the Trade Union itself had apart. I know there are several industrial concerns in Cochin State which still fight shy of Trade Unions. They do not want to recognise the Trade Unions. There are many who do not want to negotiate with them. Now the passing of this Bill will put a stop to that attitude on the part of industrial establishments.

Now, Sir, If this Bill becomes law I would say there will be order where there has been anarchy till now. There has been nothing to regulate the relationship between the employer and the employee till now. We will get it for the first time. Thereafter we have got some firm basis to proceed upon and we are almost on *terra firma*. There are regulations which control the relations between employers and the employees. If the employees are dissatisfied with any of the provisions and if there is a trade dispute between the employer and the employee, there are ample provisions on our Statute Book to have the trade dispute either settled by adjudication or by a conciliation board or by an enquiry committee, and therefore, according to me, this is the first beginning of a series of legislations which I have in view in order to better the conditions of industrial employees and indirectly of industrial employers also in the State.

Two amendments have been tabled by the Hon'ble Member for Labour. The first is with respect to the question whether this Bill should apply to a concern which employ 100 workers or should it be something less. The Hon'ble Member for Labour wants this Bill to be made applilcable to establishments with 50 employees even. I may even at this stage say that I am prepared to accept that amendment because the figure '100' is with respect to large establishments which exist in British India. But conditions in Cochin, being what they are, if the Bill should give the largest amount of benefit to the workmen in Cochin, the number ought to be reduced from 100 to 50. And again in clause 3 it is stated that "within six months from the date on which this Act becomes applicable.....". The Hon'ble Member for Labour wants the "six" to be substituted by the word "three". On that matter also I am going to accept his amendment. With these few remarks I move that the Bill may be accepted.

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മിസ്റ്റർ പി. കെ. ഡീവർ : സർ, ഞാൻ ഈ ബില്ലിനെ സ്വാഗതം ചെയ്യുന്നു. എന്റെ രണ്ടു ഭേദഗതികളും ബഹുമാനപ്പെട്ട മന്ത്രി സ്വീകരിക്കാമെന്നു പറഞ്ഞതിൽ ഞാൻ കൃതജ്ഞനാണു്. പക്ഷെ, ഞാൻ വളരെ ഭയപ്പെട്ടിട്ടാണു് രണ്ടു ഭേദഗതികളും കൊണ്ടുവന്നിരുന്നതു്. അതു രണ്ടും സ്വീകരിച്ചു സ്ഥിതിക്കു് ആ ഭേദഗതികൾ കൊണ്ടുവന്നതിനെക്കാൾ വിശാലമായ നിലയിൽ, ആളുകൾക്കു കൂടുതൽ ഗുണകരമായി അവരെ ബാധിക്കത്തക്ക നിലയിൽ കൊണ്ടുവരാമായിരുന്നുവെന്നു ഞാനിപ്പോൾ വിചാരിക്കുകയാണു്. ഫാക്ടറി ആക്ടു് പ്രകാരം ഇരുപതോ അതിൽ കൂടുതലോ ആളുകൾ വേല ചെയ്യുന്നതും എലക്ട്രിക്കു് പവ്വർ ഉപയോഗിച്ചു നടത്തുന്നതുമായ ജോലിസ്ഥാപനങ്ങൾ ഫാക്ടറി ആക്ടിൽ പെടുമെന്നാണു് പറയുന്നതു്. പക്ഷെ, അൻപതിൽ കുറവുള്ള ആളുകൾ വേലയെടുക്കുന്ന പല ഫാക്ടറികളും ഈ സ്റ്റാൻഡിംഗു ഓർഡർ ആക്ടിന്റെ പരിധിയിൽ പെടാതെ പോകും. ഉദാഹരണത്തിനു ഇവിടെ വെളിച്ചെണ്ണ ആട്ടുന്ന മില്ലുകളുണ്ടു്. രണ്ടു ഷിഫ്ടായിട്ടു പണിയെടുപ്പിക്കുന്നതുമൂലം, പന്ത്രണ്ടും പതിമ്മൂന്നും മണിക്കൂർവീതം വേലക്കാരെക്കൊണ്ടു വേല എടുപ്പിക്കുന്ന ഈ മില്ലുകളിൽ പലതിലും അമ്പതുവേലക്കാർ ഉണ്ടായെന്നുവരികയില്ല. ആ ആളുകളെ സംബന്ധിച്ചും അവരുടെ നിയമനം, സ്വീസ്സ്, ലീവു്, മുതലായവയെക്കുറിച്ചും ചില നിയമങ്ങൾ എല്ലാം ഉണ്ടാക്കാൻ സാധിക്കാത്തപക്ഷം അവർ ഇന്നനുഭവിക്കുന്ന കഷ്ടപ്പാടുകൾ പലതും നീക്കം ചെയ്യാൻ സാധിക്കാതെപോകും. അതിനാൽ നൂറു എന്നതു് അമ്പതാക്കാൻ സമ്മതിച്ചിട്ടുള്ള ഗവമ്മെണ്ടു് ഒന്നുകൂടി ആലോചിച്ചു് ഇരുപതോ, ഇരുപത്തിയഞ്ചോ ആളുകൾ മാത്രം ഉള്ള സ്ഥാപനങ്ങൾക്കുംകൂടി ബാധിക്കത്തക്ക നിലയിലാക്കണമെന്നാണു് ഞാൻ പറയുന്നതു്. ബിൽ നടപ്പായാൽ ആറുമാസത്തിനുള്ളിൽ സ്റ്റാൻഡിംഗു ഓർഡേഴ്സു് തയ്യാറാക്കി ഗവമ്മെണ്ടിലേക്കു അയക്കണമെന്നതു് ആറു മാസത്തിനുള്ളിൽ വേണമെന്നു എന്റെ ഭേദഗതിയും ഗവമ്മെണ്ടു് ഭേദഗതിക്കാമെന്നു സമ്മതിച്ചിട്ടുണ്ടു്. ഈ മൂന്നുമാസമെന്നതു രണ്ടുമാസമായിട്ടോ ഒരു മാസമായിട്ടോ ചുരുക്കുവാൻ പാടില്ലെ എന്നുകൂടി ഗവമ്മെണ്ടു് ആലോചിക്കേണ്ടതാണു്. ഒരുമാസം മാത്രമായാലും സ്റ്റാൻഡിംഗു ഓർഡർ നടപ്പിലായിവരുമ്പോൾ അഞ്ചോ ആറോ മാസം പിടിക്കും. കാരണം കോപ്പി സർട്ടിഫൈയിംഗു ആഫീസ്സുക്കു അയച്ചു് അദ്ദേഹം അതു് തൊഴിലാളി യൂണിയനു അയച്ചു കൊടുത്തു ആക്ഷേപങ്ങൾ കേൾക്കും. പിന്നിട്ടു് അപ്പീലിനുള്ള സമയവും കഴിയുമ്പോൾ ആറോ ഏഴോ മാസം ആയാൽ അത്ഭുതമില്ല. എന്റെ ഉൽക്കണ്ഠ വളരെ വേഗത്തിൽ ഈ ബില്ലിന്റെ ഗുണം തൊഴിലാളികൾക്കു അനുഭവിക്കുവാൻ ഇടയാകണമെന്നതാണു്.

ഇനി ഒന്നു്, സ്റ്റാൻഡിംഗു ഓർഡേഴ്സിനു് എതിരായി പ്രവർത്തിക്കുന്നവരുടെ പേരിൽ നടപടി നടത്തുന്നതിനു ഗവമ്മെണ്ടിന്റെ അനുമതി വേണമെന്നുള്ളതിനെ പറ്റിയാണു്. വാസ്തവത്തിൽ ഫാക്ടറി ആക്ടിൽ ഫാക്ടറിഉടമസ്ഥൻ എന്തെങ്കിലും കുറ്റം ചെയ്താൽ അയാളുടെപേരിൽ കേസ്സു കൊടുക്കാൻ തൊഴിലാളിക്കു അധികാരമില്ല. നടപടി നടത്താനുള്ള അധികാരം ഗവമ്മെണ്ടിനുണ്ടു്. അതുകൊണ്ടു് വലിയ കുഴപ്പങ്ങളുണ്ടു്. അതുകൊണ്ടു് ഈ നിയമത്തിലെ ഏതെങ്കിലും ആളുടെപേരിൽ കോടതിമൂലം നടപടി നടത്താൻ തൊഴിലാളിക്കു് അനുവാദം വേണ്ടതാണെന്നാണു് ഞാൻ പറയുന്നതു്. ബിൽ ഫസ്റ്റ്-ാംക്ലാസ്സിൻ നു-ാംവകുപ്പിൽ "No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of Government". ഇതൊക്കെ ഞങ്ങൾക്കു വളരെ ബുദ്ധിമുട്ടുണ്ടാക്കുന്ന സംഗതികളാണു്. ഞങ്ങൾ കോടതിയിൽ ഹർജി കൊടുത്തുകൊള്ളാം—കോടതിയിൽനിന്നു മുതലാളിയെ വിളിച്ചു ചോദിക്കട്ടെ. ഞങ്ങൾ സാക്ഷികളെ കൊടുക്കാം. അതിനു ഞങ്ങൾക്കു അവകാശം വേണം. ഇതാണു് തൊഴിലാളിയുടെ ആവശ്യം.

ട്രേഡ് ഡിസ്പ്യൂട്സ് ആക്ടിരിക്കുമ്പോൾ അതിനു വിപരീതമായി കുറെ തൊഴിലാളികളെ പിരിച്ചു വിട്ടാൽ ലേബർ കമ്മീഷണർക്കു ഉടനെ സംശയമായി, അഡ്വക്കേറ്റ് ജനറലിനോടു സംശയം ചോദിക്കയായി. അതൊക്കെ കഴിഞ്ഞുവരുമ്പോഴേയ്ക്കും കാലം കുറെ കഴിയും, തൊഴിലാളി വളരെ കഷ്ടപ്പാടും അനുഭവിച്ചു കഴിയും. ഉദാഹരണത്തിനു തുപ്പുണിത്തുറയിൽ ഒരു ലോക്കൗട്ട് നടത്തിയിട്ടു് അതിനെ കുറിച്ചന്വേഷിക്കാൻ ഞാൻ ഒരു Adjournment motion കൊണ്ടുവരേണ്ടിവന്നു. അതുകൊണ്ടു് മുതലാളിയുടെ പേരിൽ നടപടിയെടുക്കുന്നതിനു ഞങ്ങൾക്കുംകൂടി അധികാരം വേണം.

വേറൊരു സംഗതി, ഇവിടെ എത്ര നിയമമുണ്ടാക്കിയാലും കൊച്ചിൻ പോർട്ടുകാർക്കു് അതു ബാധകമല്ലെന്നാണു് അവരുടെ ഭാവം. അവർ പറയും, ഞങ്ങൾ ഇന്ത്യാ ഗവമ്മെണ്ടി

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ന്റെ ആളുകളാണ് എന്ന്. എന്നാൽ, ഇന്ത്യാ ഗവമ്മെണ്ടു നിയമം പാസ്സാക്കിയാൽ അതനുസരിക്കുമോ? അതും ഇല്ല. അപ്പോൾ പറയും ഇന്ത്യാഗവമ്മെണ്ടു നിയമം പാസ്സാക്കി. പക്ഷെ, കൊച്ചി ഗവമ്മെണ്ടു അതു സ്വീകരിച്ചിട്ടില്ലെന്ന്. ഉദാഹരണത്തിനു ഒരു മണിക്കൂറിൽ കൂടുതൽ പണിയെടുപ്പിൽ over time ചാർജ്ജ് കൂലിയുടെ ഇരട്ടി കൊടുക്കണമെന്ന് നിയമമുണ്ട്. പക്ഷെ, കൊച്ചിൻ പോട്ടിൽ അതു കൊടുക്കുന്നില്ല. കാരണം പറയുന്നതു കൊച്ചിയിൽ ആ നിയമം നടപ്പായിട്ടില്ലെന്നാണ്. ഇപ്പോഴത്തെ ഈ ബിൽ അവർക്കുകൂടി ബാധകമാകുമോ എന്നറിഞ്ഞില്ല. ബാധകമായില്ലെങ്കിൽ ബാധകമാക്കണം. അവിടെ ഒരു കൊല്ലം പണിയെടുത്തിട്ടുള്ള ഒരു ലസ്ക്കരെ മാധശമ്പളത്തിൽനിന്നു ദിവസശമ്പളത്തിലേയ്ക്കു വെറും കൂലി ആയിട്ടു മാറ്റി. അതു് അവിടത്തെ മേസ്തിരിക്കു അയാളോടു കുറച്ചു രസം ഇല്ലാത്തതുകൊണ്ടുമാത്രമാണ്. അതുകൊണ്ട് കൊച്ചിൻ പോട്ടിൽക്കൂടി ഈ നിയമം ബാധകമാക്കണം. വേറൊരു സംശയമുണ്ട്, സ്റ്റാൻഡിംഗ് ഓർഡർ അയച്ചുകൊടുത്താൽ സർട്ടിഫൈയിംഗ് ഉദ്യോഗസ്ഥൻ അതിന്റെ മെരിറ്റ്സൊന്നും പറയാൻ സാധ്യമല്ലെന്നു പറയുന്നില്ല. പിന്നെ എന്താണ് പറയാൻ പോകുന്നതെന്ന് അറിഞ്ഞുകൂടാ. ഇന്നിന്ന മാതിരി ചെയ്താൽ Misconduct-ൽ പെടും, നിന്നെ കഴുത്തിൽ പിടിച്ചു തള്ളും എന്നൊക്കെ എഴുതിവെച്ചാൽ അതു സ്റ്റാൻഡിംഗ് ഓർഡറാകും. തൊഴിലാളി അതിനെതിരായി എത്ര ശക്തിയായി വാദിച്ചാലും certifying officer-ക്കു അതു സ്വീകരിക്കാതെയിരിക്കാൻ കഴിയും. ഉദാഹരണത്തിനു ഈ കൊല്ലത്തെ സർവ്വീസ്സ് വേണം ഒരു തൊഴിലാളിയെ permanent ആക്കാൻ, എന്നു പറഞ്ഞാൽ അതു ഈ കൊല്ലംതന്നെ വേണോ, അതിലും കുറയ്ക്കരുതോ എന്നൊന്നും അദ്ദേഹം ചിന്തിക്കുന്നില്ല. ആ സംഗതിയും ഗവമ്മെണ്ടു പുനരാലോചിക്കണ്ടതില്ലെ എന്നാണ് എനിക്കു ചോദിക്കുവാനുള്ളതു്. ഈ കാര്യങ്ങളെല്ലാം ആലോചിക്കാനുണ്ടെങ്കിലുംകൂടി ഇതു സെലക്ട് കമ്മിറ്റിക്കു അയയ്ക്കണമെന്നു പറയുന്നില്ല. ഈ നിലയിൽതന്നെയായാലും ഇതു ഉടനെ ഈ സിറ്റിങ്ങിൽവച്ചു പാസ്സാക്കണമെന്നു ഞാൻ അഭ്യർത്ഥിക്കുന്നു.

***Mr. P. Kumaran Ezhuthassan** (*Vadakkancheri*): Mr. President, Sir, I have great pleasure to accord my support to this legislation, moved by the Hon'ble Minister. I would have liked the idea of this legislation taking precedence over the supplementry grants so that I could have had oppourtunity for congratulating the Ministry on a very useful thing before expressing my feeling as I said to-day on the earlier item in the agenda. I was very closely following the arguments of the mover of this Bill, I was pleased to hear that this is the first of a series of legislations that he is contemplating in the interests of both labour and capital. I am glad that he has come forward with the first thing first. Standing Orders, Sir, as everybody knows are the essentials of services we do need under Government or private agencies like the Industrialist and, therefore, he has to be congratulated. With regard to other parts of the Bill the Hon'ble mover has been pleased to accept the amendment as worded by my Hon'ble friend the member for Labour. There is real satisfaction in that also. Characteristically Mr. Dewer has done his part very well and he said that with reasons. Casual reading of one clause in the Bill suggests some improvement to it. That is Clause 14—Power to exempt. "Government may by notification in the Cochin Government Gazette exempt, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of this Act." Here I smell mischief; if not mischief, smell want of safety. Of course Government must be all powerful. I concede that, especially when it is a popular Government it must be all powerful. Instead of that, when this power of exemption is reserved with the Government, is there not a danger? I invite the pointed attention of the Hon'ble Member for Labour to clause 14. He may be able to look after it. If he is satisfied, all-right, I do not murmur.

***Mr. K. Balakrishna Menon** (*Cheruthuruthi*): I invite your attention to clause (2) of section 13 of the Bill in which provision is made for the punishment of the employers who contravene the said provision. Is there no corresponding criminal liability on the part of employees who violate the provisions?

***Mr. P. Govinda Menon** (*Minister for Food and Education*): Now, Sir, several useful suggestions have been made to the several provisons of this Bill. I take them as useful suggestions. To take the last one first, about the absence of provision to punish the employees. Now, if you read clause 13—penalties and procedure—you will see that penalty is provided for this matter.

* Speech not corrected by the Hon'ble Member.

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Now this is an enactment which compels employers to frame Standing Orders; and provision is made to see that the Standing Orders once framed and approved by Government are not amended by the employers. If you go through the section you will see that penalties are provided only for that. There is nothing for the workmen. With respect to the points raised by the Hon'ble Member for Labour, I very much appreciate his anxiety to get more and more benefit and protection to the large classes of workmen who deserve to be protected. But I do submit, Sir, that the period of 3 months fixed is necessary to enable the employ ges throughout Cochin to frame these Standing Orders. As I said, you will please concede for a moment the result, the scope and the functions of this Bill. This will be most revolting to several employers,—employers who treat these workmen as their servants. The status of these workmen are in many employments not regulated by contract. Here is the first of all a call by statute asking them to frame provisions. They may have absolutely no provisions either written or unwritten and they will have to find provisions which will properly regulate the industrial relations; between the workmen and the employers. Therefore, I submit that a period of three months is necessary. But as soon as that period is over or as soon as this model or rather draft Standing Orders come before I will undertake to see that there is no unnecessary delay on the part of the Government to see that they are finally passed.

Then, with respect to the question raised whether establishments which take in less than 50 workmen also should not be brought under the provisions of this Bill. I wish to point out this. The definition of 'workmen' idcludes clerks also, you please see the cluase 2 'Workman' means any person employed in any industrial establishment to do any skilled or unskilled manual or clerical labour for hire or reward,.." If you bear in mind that also, then you will see that there will be very few establishments in Cochin which will not be covered by the provisions of this Bill. If, as a result of the working of this Bill for a few days or few months, it is found that there is a large section of workmen who have not got the protection of this Act and who ought to be given that protection, it is up to the Government or to the Hon'ble Member or any other member to bring in suitable amendments. This is a legislation which is being introduced for the first time not only here but also in British India.

Finally, with respect to points raised by Mr. Dewer, regarding the provision in clause 4 (*b*) it shall not be the function of the certifying officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any Standing Orders." Speaking entirely for my part I find absolutely no objection to this provision here for this reason. The certifying officer or the appellate authority is not the officer or the authority to adjudicate between upon disputes. That is the function of quite a different authority. Now suppose there is the question whether the workmen in a certain employment ought to get 15 days casual leave or 30 days. Suppose certain establishment lays down that casual leave which each workmen is entiled to is only 15 days and the Union wants 30 days. The question whether it will be 15 days or 30 days in a trade dispute. So that this Bill is not intended to settle a trade dispute between the workmen and their employers. This Bill is only intended to see that there are regulations made with respect to the subjects mentioned in the schedule.

Mr. K. Balakrishna Menon *(Cheruthuruthi):* In clause 13 (2) it is stated. "An employer who does any act in contravention of the standing orders finally certified under this Act for his industrial establishment shall be punishable with fine, etc."

Mr. P. Govinda Menon *(Minister for Food and Education):* Once having laid down a Standing Order voluntarily by him, if he violates it, then it is not a trade dispute.

Mr. K. Balakrishna Menon *(Cheruthuruthi):* What about the.....?

Mr. P. Govinda Menon *(Minister for Food and Education):* This is not intended to resolve trade disputes. For this, we may amend the Trade Disputes Act. If you again go by the Schedule you will see that there is nothing whatsoever which the workmen can contravene. For example once more go through the Schedule.

"1. Classification of workmen *e. g.*, whether permanent, temporary, apprentices or probationer, etc."

If a rule is laid down with respect to that the workmen cannot violate it.

With respect to attendance, late coming, etc. the Standing Order is intended to lay down punishment. Suppose a workman does not attend or comes late, the Standing Order lays down, what shall be the punishment? So, there also there is nothing which the workmen can violate. So that, if you go through the whole Schedule, you will find in 6 "requirements to enter premises

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by certain gates, and liability to search". Is it the contention of the House that if the gates are pointed out through which certain workmen must enter, the proper way to do that thing will be to keep the other door closed? Arrangements have been made in the Standing Orders and probably the more commonsense way of doing things is that if there are two gates one might be closed. Now, Sir, here is a legislation which seeks to make in roads upon the liberty of contract between workmen and employers. There is nothing in law or in any statute which compels employer to lay down Standing Orders. Going against the old motions of individual liberty, Government are now making inroads upon the liberty of the employer, and therefore it is the duty of the Government to have the matter under their control. It is for that reason that these exemptions are provided. That argument applies also to the question as to why Government sanction is necessary to launch a prosecution. Everywhere from beginning to end there are controls and there should be some authority to exercise that control and if Government is not exercising that control properly or if the Government are not giving exemptions properly, the proper way is not to attack the legislation, but to attack the Government and to remove them.

Dr. S. S. Rao *(Nominated)*: Regarding these orders, does the Standing Orders differ with different industrial concerns?

Mr. P. Govinda Menon *(Minister for Food and Education)*: Any industrial employer can lay down his own Standing Orders. Let me emphasise it once more that the only requirement of this Bill is with respect to matters referred to in the Schedule and there shall be a Standing Order.

I request that the Bill be read in Council.

Mr. M. Sivarama Menon *(Advocate-General)*: I second it.

Motion put and carried

Secretary to the Council: The title of the Bill is "The Industrial Employment (Standing Orders) Bill".

Mr. P. Govinda Menon *(Minister for Food and Education)*: I request that the President may be pleased to suspend the S.O. 32.

Mr. President: Yes.

Mr. P. Covinda Menon *(Minister for Food and Education)*: I move that the Bill may be taken up for consideration.

Mr. M. Sivarama Menon *(Advocate-General)*: I second it.

Motion put and carried

Clause 2 put and carried

Clause 3 as amended put and carried

Clauses 4 to 15 put and carried

Schedule put and carried

Clause 1 as amended put and carried

Title and preamble put and carried

Mr. P. Govinda Menon *(Minister for Food and Education)*: I move that the Bill may be taken up and finally passed to-morrow.

Mr. M. Sivarama Menon *(Advocate-General)*: I second it.

Motion put and carried

Mr. M. Sivarama Menon *(Advocate-General)*: Sir, I beg to move that the Cochin Public Canals and Backwaters Navigation Act (Amendment) Bill may be read in the Council.

Mr. B. V. K. Menon *(Secretary to Government)*: I second it.

Mr. M. Sivarama Menon *(Advocate-General)*: The scope of this amendment is very small. There is reciprocity in the matter of licensing of steam and motor boat between Travancore and the Province of Madras. The Province of Madras has imposed a pilgrim tax under a provision in their Public Health Act. There is no statute in Cochin which gives this liability for the Government to impose any pilgrim tax so far as Cochin State is concerned. The pilgrim tax has to be collected at the point of starting. Persons who go to Chawaghat and other places start at jetties in Cochin State. So power has to be provided in our Act enabling our Govern-

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ment to collect the taxes which we will have to adjust with the Madras Government. Similarly the reverse will be the process there, and their legislation will be amended. Therefore the scope of this amendment is to take power with the Government by which this tax can be collected by the Cochin Government when persons travel from Cochin State to places outside where they are subject to a pilgrim tax.

Motion put and carried

Secretary to the Council: The title of the Bill is the Cochin Public Canals and Backwaters Navigation Act (Amendment) Bill.

Mr. M. Sivarama Menon *(Advocate-General):* I request that S. O. 32 may be suspended.

Mr. President: Yes.

Mr. M. Sivarama Menon *(Advocate-General) :* I move that the Bill be taken into consideration.

Mr. B. V. K. Menon *(Secretary to Government):* I second it.

Clause 2 put and carried

Clause 1 put and carried

Title and preamble put and carried

Mr. M. Sivarama Menon *(Advocate-General):* Sir, I beg to move that the Bill may be may be taken up for final consideration to-morrow.

Mr. B. V. K. Menon *(Secretary to Government):* I second it.

Motion put and carried

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Sir, I find that the official work posted for to-day, if not finished, will be carried over to Tuesday. Now that the official work is completely finished, my suggestion is that the non-official legislative work posted for Thursday and Friday may, if possible, be taken up to-morrow.

Mr. President: I will consider taking it on Wednesday, but not to-morrow.

The House rose for the day at 5 p.m.

N. S. RADHAKRISHNA SARMA
Secretary to the Council

APPENDIX I

(Please see Answer to Question No. 15)

The list according to general revision in 1120 was as follows.—

Ward		Ward	
I	364	XIII	420
II	233	XIV	270
III	481	XV	171
IV	241	XVI	322
V	411	XVII	194
VI	225	XVIII	250
VII	325	XIX	191
VIII	343	XX	344
IX	385	XXI	241
X	244	XXII	268
XI	420	XXIII	268
XII	480		

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5. Spare parts of mechanically propelled vehicles.
6. Coal.
7. Iron and Steel.
8. Mica.
9. Firewood.
10. Charcoal.
11. Livestock.
12. Eggs.
13. Fish.
14. Non-edible oil seeds.
15. Manures.
16. Electrical Energy.
17. All vat dyes.
18. Alazarine.
19. Other dyes used for textile printing.
20. Artificial silk yarn.
21. Motor vehicles (new or used).
22. Fruits.
23. Vegetables.
24. Cattle fodder.

Statement of Objects and Reasons

The Defence of India Act, the Defence of India Rules and the Control Orders issued thereunder expired on the 30th September 1946 in British India and the Proclamation which made the same applicable to this State has also terminated. In spite of the termination of the War, it is very essential that the power to control production, supply and distribution of essential articles and trade and commerce therein, should continue to vest in Government for some time longer as otherwise the general economic system and the welfare of the State are likely to be seriously affected. The Government therefore considered that they should possess the power to continue the existing controls subject to relaxation or modification as circumstances render it permissible. Incidental powers, such as, requisitioning of property, movable or immovable, control over undertakings and the like are also necessary for the effective enforcement of the control.

Accordingly along with the termination of the Defence of India Act as made applicable to Cochin by Proclamation VIII of 1115, the Cochin Essential Articles Control and Requisitioning Powers Proclamation, III of 1122, was issued on the lines of a similar measure enacted in Madras and other British Indian Provinces and States with a view to collaborate with the rest of India in working the controls. This Bill seeks to replace that Proclamation by a measure passed through the Legislature.

APPENDIX V

INDUSTRIAL EMPLOYMENT (STANDING ORDERS) BILL

(An Act to require employers in industrial establishments formally to define conditions of employment under them)

WHEREAS it is expedient to require employers in industrial establishments to define with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them ;

It is hereby enacted as follows :—

1. *Short title, extent and application.*—(1) This Act may be called the Industrial Employment (Standing Orders) Act, of 1122.

(2) It extends to the whole of Cochin State.

(3) It applies to every industrial establishment wherein one hundred or more workmen are employed, or were employed on any day of the preceding twelve months, and to such class or classes of other industrial establishments as the Government may from time to time, by notification in the Cochin Government Gazette, specify in this behalf.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,

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(*a*) "appellate authority" means an authority appointed by Government by notification in the Cochin Government Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act;

(*b*) "Certifying Officer" means the Labour Commissioner or such other officer appointed by Government by notification in the Cochin Government Gazette to exercise in such area as may be specified in the notification the functions of a Certifying Officer under this Act;

(*c*) "employer" means the owner of an industrial establishment to which this Act for the time being applies, and includes—

(*i*) in a factory, any person named under clause (*e*) of sub-section (1) of section 9 of the Cochin Factories Act, II of 1113, as manager of the factory;

(*ii*) in any industrial establishment under the control of any department of Government, the authority appointed by Government in this behalf, or where no authority is so appointed, the head of the department;

(*iii*) in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment;

(*e*) "industrial establishment" means—

(*i*) an industrial establishment as defined in clause (*ii*) of section 2 of the Cochin Payment of Wages Act, IV of 1113, or

(*ii*) a factory as defined in clause (*i*) of section 2 of the Cochin Factories Act, II of 1113, or

(*iii*) a railway as defined in clause (4), of section 2 of the Cochin Railways Act, XI of 1111, or

(*iv*) the establishment of a person who, for the purpose of fulfilling a contract with the owner of any industrial establishment, employs workmen;

(*f*) "prescribed" means prescribed by rules made by Government under this Act;

(*g*) "standing orders" means rules relating to matters set out in the Schedule;

(*h*) "trade union" means a trade union for the time being registered under the Cochin Trade Unions Act, III of 1112;

(*i*) "workman" means any person employed in any industrial establishment to do any skilled or unskilled, manual or clerical labour for hire or reward, but does not include any member of the Cochin State Forces.

3. *Submission of Draft Standing Orders.*—(1) Within six months from the date on which this Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in his industrial establishment.

(2) Provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the industrial establishment, and where model standing orders have been prescribed, shall be, so far as is practicable, in conformity with such model.

(3) The draft standing orders submitted under this section shall be accompanied by a statement giving prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong.

(4) Subject to such conditions as may be prescribed a group of employers in similar industrial establishments may submit a joint draft of standing orders under this section.

4. *Condition for certification of standing orders.*—Standing orders shall be certifiable under this Act if—

(*a*) Provision is made therein for every matter set out in the Schedule which is applicable to the industrial establishment, and

(*b*) the standing orders are otherwise in conformity with the provisions of this Act;

and it shall not be the function of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

5. *Certification of standing orders.*—(1) On receipt of the draft under section 3 the Certifying Officer shall forward a copy thereof to the trade union, if any, of the workmen, or where there is no such trade union, to the workmen in such manner, as may be prescribed,

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together with a notice in the prescribed form requiring objections, if any, which the workmen may desire to make to the draft standing orders to be submitted to him within fifteen days from the receipt of the notice.

(2) After giving the employer and the trade union or such other representatives of the workmen as may be prescribed an opportunity of being heard, the Certifying Officer shall decide whether or not any modification of or addition to the draft submitted by the employer is necessary to render the draft standing orders certifiable under this Act, and shall make an order in writing accordingly.

(3) The Certifying Officer shall thereupon certify the draft standing orders after making any modifications therein which his order under sub-section (2) may require, and shall within seven days thereafter send copies of the certified standing orders authenticated in the prescribed manner and of his order under sub-section (2) to the employer and to the trade union or other prescribed representatives of the workmen.

6. *Appeals.*—(1) Any person aggrieved by the order of the Certifying Officer under sub-section (2) of section 5 may, within twenty-one days from the date on which copies are sent under sub-section (3) of that section, appeal to the appellate authority, and the appellate authority, whose decision shall be final shall by order in writing confirm the standing orders either in the form certified by the Certifying Officer or after amending the said standing orders by making such modifications thereof or additions thereto as it thinks necessary to render the standing orders certifiable under this Act.

(2) The appellate authority shall, within seven days of its order under sub-section (1), send copies thereof of the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen, accompanied unless it has confirmed without amendment the standing orders as certified by the Certifying Officer, by copies of the standing orders as certified by it and authenticated in the prescribed manner.

7. *Date of operation of standing orders.*—Standing orders shall, unless an appeal is preferred under section 6, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (3) of section 5, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent under sub-section (2) of section 6.

8. *Rgister of standing orders.*—A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy thereof to any person applying therefor on payment of the prescribed fee.

9. *Posting of standing orders.*—The text of the standing orders as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.

10. *Duration and modification of standing orders.*—(1) Standing orders finally certified under this Act shall not, except on agreement between the employer and the workmen, be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

(2) An employer desiring to modify his standing orders shall apply to the Certifying Officer in that behalf, submitting five copies of the standing orders in which shall be indicated the modifications he proposes, and where such modifications are made in agreement with the workmen, a certified copy of the agreement shall accompany the application.

(3) The foregoing provisions of this Act shall apply in respect of an application under sub-section (2) as they apply to the certification of the first standing orders.

11. *Certifying Officers and appellate authorities to have powers of Civil Court.*—Every Certifying Officer and appellate authority shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of sections 381 and 383 of the Code of Criminal Procedure, II of 1086.

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12. *Oral evidence in Contradiction of standing orders not admissible.*—No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders as finally certified under this Act shall be admitted in any Court.

13. *Penalties and procedure.*—(1) An employer who fails to submit draft standing orders as required by section 3 or who modifies his standing orders otherwise than in accordance with section 10, shall be punishable with fine which may extend to one thousand rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) An employer who does any act in contravention of the standing orders finally certified under this Act for his industrial establishment shall be punishable with fine which may extend to one hundred rupees and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

(3) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of Government.

(4) No Court inferior to that of a Magistrate of the first class shall try any offence under this section.

14. *Power to exempt.*—Government may by notification in the Cochin Government Gazette exempt, conditionally or unconditionally any industrial establishment or class of industrial establishments from all or any of the provisions of this Act.

15. *Power to make rules.*—(1) Government may, after previous publication, by notification in the Cochin Government Gazette make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying standing orders certified under this Act in accordance with any such addition;

(*b*) set out model standing orders for the purposes of this Act;

(*c*) prescribe the procedure of Certifying Officers and appellate authorities;

(*d*) prescribe the fee which may be charged for copies of standing orders entered in the register of standing orders;

(*e*) provide for any other matter which is to be or may be prescribed;

Provided that before any rules are made under clause (*a*) representatives of both employers and workmen shall be consulted by Government.

THE SCHEDULE

[See section 2(g) and 3(2)]

Matters to be provided in Standing Orders under this Act

1. Classification of workmen *e.g.*, whether permanent, temporary, apprentices, or probationers.
2. Manner of intimating to workmen periods and hours of work, holidays pay-days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Conditions of procedure in applying for, and the authority which may grant leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search.
7. Closing and reopening of sections of the industrial establishment, and temporary stoppages of work and the rights and liabilities of the employer and workmen arising therefrom.
8. Termination of employment, and the notice thereof to be given by employer and workmen.
9. Suspension or dismissal for misconduct, and acts or omission which constitute misconduct.
10. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter which may be prescribed.

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Statement of Objects and Reasons

Experience has shown that "Standing Orders" defining the conditions of recruitment, discharge, disciplinary action, holidays, leave; etc., go a long way towards minimizing friction between the management and workers in industrial undertakings. Government of India have in the light of the consensus of opinion at the Tripartite Indian Labour Conference enacted the Industrial Employment (Standing Orders) Act, XX of 1946, which provides for the framing of "Standing Orders" in all industrial establishments employing one hundred or more workers. It is deemed necessary to statutorily provide for the framing of Standing Orders in this State also.

2. In the first instance the Act will apply to the categories of industrial establishments specified in clause 2 (e). Power is however vested in Government to extend the Act to other classes of industrial establishments or to grant exemptions, where necessary, by notification.

3. Within six months from the date on which the Act becomes applicable to an industrial establishment, the employer is required to frame draft "Standing Orders" and submit them to the "Certifying Officer" for certification. The draft should cover all the matters specified in the schedule to the Act and any other matters that Government may prescribe by rules. The certifying Officer will be empowered to modify or add to the draft Standing Orders so as to render them certifiable under the Act. It will not be his function (nor of the appellate authority) to adjudicate upon their fairness or reasonableness. There will be a right of appeal against the decisions of the "Certifying Officers".

APPENDIX VI

The Cochin Public Canals and Backwaters Navigation Act (Amendment) Bill

Preamble.—Whereas it is deemed necessary further to amend the Cochin Public Canals and Backwaters Navigation Act, I of 1092, for the purposes hereinafter appearing; IT is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Cochin Public Canals and Backwaters Navigation (Amendment) Act of 112 .

(2) It shall come into force at once.

2. *Amendment to section 9.*—In section 9 of the Cochin Public Canals and Backwaters Navigation Act, I of 1092, the word 'and' in clause (vii) shall be deleted and after clause (vii) the following shall be inserted as clause (viii) and the existing clause (viii) shall be re-numbered as clause (ix):—

"(viii) for the collection of Pilgrim Taxes, if any, imposed by this Government or for the collection on behalf of other Governments of Pilgrim Taxes imposed by such other Government; and ".

Statement of Objects and Reasons

In the Province of Madras the licensees under the Madras Canals and Public Ferries Act (Madras Act II of 1890) may be directed to collect the Pilgrim Tax as a surcharge on fares. The Madras Government have also issued instructions that such a direction should be incorporated in the form of a note to the licenses issued under their Canals and Public Ferries Act. Since vessels licensed in Cochin State ply in British Indian waters also and thus become liable for the levy of the Pilgrim Tax, the Madras Government have made a request to this Government to make a similar provision in the licenses issued under the Cochin Public Canals and Backwaters Navigation Act. But our Act does not contain a provision by which the licensees could be directed to collect a tax due to another Government as a surcharge on fares or otherwise.

There is reciprocity between Cochin, Travancore and Madras in the matter of licensing of vessels under the Cochin Public Canals and Backwaters Navigation Act. It is, therefore, considered necessary to incorporate the necessary statutory provision by which such a direction could be issued by this Government also. Hence the Bill.

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